

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1162

AN ACT

AMENDING TITLE 35, CHAPTER 3, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 35-505; AMENDING SECTIONS 35-701, 35-705, 35-706, 35-721, 35-728, 35-729, 35-901, 35-904, 35-905, 35-906, 35-910 AND 35-913, ARIZONA REVISED STATUTES; RELATING TO INDUSTRIAL DEVELOPMENT FINANCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 35, chapter 3, article 6, Arizona Revised Statutes,
3 is amended by adding section 35-505, to read:

4 35-505. Exemption: industrial development

5 THIS ARTICLE DOES NOT APPLY TO CORPORATIONS FORMED PURSUANT TO CHAPTERS
6 5 AND 6 OF THIS TITLE.

7 Sec. 2. Section 35-701, Arizona Revised Statutes, is amended to read:

8 35-701. Definitions

9 In this chapter, unless the context otherwise requires:

10 1. "Corporation" means any corporation organized as an authority as
11 provided in this chapter.

12 2. "Designated area" means any area of this state which is either
13 designated pursuant to section 36-1479 as a slum or blighted area as defined
14 in section 36-1471, designated by regulation as a pocket of poverty or a
15 neighborhood strategy area by the United States department of housing and
16 urban development pursuant to title I of the housing and community
17 development act of 1977 (P.L. ~~108-6~~ 89-174; 42 United States Code sections
18 5301 through 5320), as amended, and the department of housing and urban
19 development act (P.L. 108-6; 42 United States Code section 3535(d)), ~~OR~~
20 designated by the United States department of housing and urban development
21 as an empowerment or enterprise zone pursuant to the federal omnibus budget
22 and reconciliation act of 1993 (P.L. ~~108-6~~ 103-66; 26 United States Code
23 section 1391(g)), ~~or~~ or an area certified as an enterprise zone pursuant to
24 section 41-1524, subsection B.

25 3. "Governing body" means:

26 (a) The board or body in which the general legislative powers of the
27 municipality or the county are vested.

28 (b) The Arizona board of regents with respect to a corporation formed
29 with the permission of the Arizona board of regents.

30 4. "Income" means gross earnings from wages, salary, commissions,
31 bonuses or tips from all jobs, net earnings from such person's or family's
32 own nonfarm business, professional practice or partnership, and net earnings
33 from such person's or family's own farm. Income includes income, other than
34 earnings, that consists of amounts received from social security or railroad
35 retirement, interest, dividends, veterans payments, pensions and other
36 regular payments, public assistance or welfare payments, including aid for
37 dependent children, old age assistance, general assistance and aid to the
38 blind or totally disabled, but excluding separate payments for hospital or
39 other medical care.

40 5. "Manufactured house" means a structure that is manufactured in a
41 factory after June 15, 1976, that is delivered to a homesite in more than one
42 section and that is placed on a permanent foundation. The dimensions of the
43 completed house shall not be less than twenty feet by forty feet, the roof
44 must be sloping, the siding and roofing must be the same as those found in

1 site-built houses and the house must be eligible for thirty year real estate
2 mortgage financing.

3 6. "Municipality" or "county" means the Arizona board of regents or
4 any incorporated city or town, including charter cities, or any county in
5 this state in which a corporation may be organized and in which it is
6 contemplated the corporation will function.

7 7. "Persons of low and moderate income" means, for the purposes of
8 financing owner-occupied single family dwelling units in areas which the
9 municipality has found, pursuant to section 36-1479, to be slum or blighted
10 areas, as defined in section 36-1471, persons and families whose income does
11 not exceed two and one-half times the median family income of this state. In
12 all other areas it means persons and families whose income does not exceed
13 one and one-half times the median family income of this state.

14 8. "Project" means any land, any building or any other improvement and
15 all real and personal properties, including machinery and equipment whether
16 or not now in existence or under construction and whether located within or
17 without THIS STATE OR the municipality or county approving the formation of
18 the corporation, that are suitable for any of the following:

19 (a) With respect to a corporation formed with the permission of a
20 municipality or county other than the Arizona board of regents:

21 (i) Any enterprise for the manufacturing, processing or assembling of
22 any agricultural or manufactured products.

23 (ii) Any commercial enterprise for the storing, warehousing,
24 distributing or selling of products of agriculture, mining or industry, or of
25 processes related thereto, including research and development.

26 (iii) Any office building or buildings for use as corporate or company
27 headquarters or regional offices or the adaptive use for offices of any
28 building within this state that is on the national register of historic
29 places or rehabilitation of residential buildings located in registered
30 historic neighborhoods.

31 (iv) A health care institution as defined in section 36-401.

32 (v) Residential real property for dwelling units located within the
33 municipality or county approving the formation of the corporation and, in the
34 case of a county, whether or not also within a municipality that is within
35 the county.

36 (vi) Repairing or rehabilitating single family dwelling units or
37 constructing or repairing residential fences and walls.

38 (vii) Convention or trade show facilities.

39 (viii) Airports, docks, wharves, mass commuting facilities, parking
40 facilities or storage or training facilities directly related to any of the
41 facilities as provided in this item.

42 (ix) Sewage or solid waste disposal facilities or facilities for the
43 furnishing of electric energy, gas or water.

44 (x) Industrial park facilities.

45 (xi) Air or water pollution control facilities.

1 (xii) Any educational institution that is operated by a nonprofit
2 educational organization that is exempt from taxation under section 501(c)(3)
3 of the United States internal revenue code and that is not otherwise funded
4 by state monies, any educational institution or organization that is
5 established under title 15, chapter 1, article 8 and that is owned by a
6 nonprofit organization, any private nonsectarian school or any private
7 nonsectarian organization established for the purpose of funding a joint
8 technological education school district.

9 (xiii) Research and development facilities.

10 (xiv) Commercial enterprises, including facilities for office,
11 recreational, hotel, motel and service uses if the facilities authorized by
12 this item are to be located in a designated area.

13 (xv) A child welfare agency, as defined in section 8-501, owned and
14 operated by a nonprofit organization.

15 (xvi) A transportation facility constructed or operated pursuant to
16 title 28, chapter 22, article 1 or 2.

17 (xvii) A museum operated by a nonprofit organization.

18 (xviii) Facilities owned or operated by a nonprofit organization
19 described in section 501(c) of the United States internal revenue code of
20 1986 ~~that is primarily engaged in delivering community services on that~~
21 ~~property consisting of fitness programs, camping programs, health and~~
22 ~~recreation services, youth programs, child care, senior citizen programs,~~
23 ~~individual and family counseling, employment and training programs, services~~
24 ~~for individuals with disabilities, meals, feeding programs or disaster~~
25 ~~relief.~~

26 (xix) New or existing correctional facilities ~~that contract~~
27 ~~exclusively with the state department of corrections or the department of~~
28 ~~juvenile corrections for the housing of inmates or committed youths~~ WITHIN
29 THIS STATE.

30 (b) With respect to a corporation formed with the permission of the
31 Arizona board of regents, any facility consisting of classrooms, lecture
32 halls or conference centers or any facility for research and development or
33 for manufacturing, processing, assembling, marketing, storing and
34 transferring items developed through or connected with research and
35 development or in which the results of such research and development are
36 utilized, but only if the facility is located in an area designated as a
37 research park by the Arizona board of regents.

38 9. "Property" means any land, improvements thereon, buildings and any
39 improvements thereto, machinery and equipment of any and all kinds necessary
40 to a project and any other personal properties deemed necessary in connection
41 with a project.

42 10. "Research park" means an area of land that has been designated by
43 the Arizona board of regents as a research park for a university and that, at
44 the date of designation, is owned by this state or by the Arizona board of
45 regents.

1 11. "Single family dwelling unit" includes any new, used or
2 manufactured house that meets the insuring requirements of the federal
3 housing administration, the veterans administration or any other insuring
4 entity of the United States government or any private mortgage insurance or
5 surety company that is approved by the federal home loan mortgage corporation
6 or the federal national mortgage association.

7 Sec. 3. Section 35-705, Arizona Revised Statutes, is amended to read:

8 35-705. Board of directors

9 The authority shall have a board of directors in which all powers of
10 the authority shall be vested and which shall consist of any number of
11 directors, not less than three nor more than nine, all of whom shall be duly
12 qualified electors of the municipality or county with respect to which the
13 authority was formed. In the case of a corporation formed with the
14 permission of the Arizona board of regents the directors must be qualified
15 electors of this state. The directors shall serve as such without
16 compensation, except that they shall be reimbursed for their actual expenses
17 incurred in the performance of their duties in the same manner as is provided
18 for other state officers. No director shall be an officer or employee of the
19 authorizing municipality or county. All directors shall declare any conflict
20 of interest as provided in title 38, chapter 3, article 8. The directors
21 shall be elected by the governing body of the authorizing municipality or
22 county, and they shall be so elected that they shall hold office for
23 overlapping terms. At the time of the election of the first board of
24 directors the governing body of the municipality or the county shall divide
25 the directors into three groups containing as nearly equal whole numbers as
26 possible. The first term of the directors included in the first group shall
27 be two years, the first term of the directors included in the second group
28 shall be four years, the first term of the directors included in the third
29 group shall be six years, and thereafter the terms of all directors shall be
30 six years. THE GOVERNING BODY MAY REMOVE A DIRECTOR AT ANY TIME, WITH OR
31 WITHOUT CAUSE.

32 Sec. 4. Section 35-706, Arizona Revised Statutes, is amended to read:

33 35-706. Corporate powers

34 A. In addition to the powers granted to an industrial development
35 authority by law, the authority shall have the following powers, together
36 with all powers incidental or necessary for the performance of the following:

37 1. To acquire, whether by purchase, exchange, gift, lease or otherwise
38 establish, construct, improve, maintain, equip and furnish one or more
39 projects.

40 2. To lease to others any or all of its projects, to charge and
41 collect rent and to terminate any lease upon the failure of the lessee to
42 comply with any of the obligations of the lease.

43 3. To sell, exchange, donate and convey to others any or all of its
44 projects or properties upon terms and conditions as its board of directors
45 may deem advisable, including the power to receive for any sale the note or

1 notes of the purchaser of the project or property, whenever its board of
2 directors finds the action to further advance the interest of the
3 corporation.

4 4. To issue its bonds for the purpose of carrying out any of its
5 powers.

6 5. To mortgage and pledge any or all of its projects and properties,
7 whether owned or acquired, and to pledge the revenues, proceeds and receipts
8 or any portion of the revenues, proceeds and receipts from a project as
9 security for the payment of the principal of and interest on any bonds so
10 issued and any agreements made in connection therewith.

11 6. To contract with and employ others to provide and to pay
12 compensation for professional services and other services as the board of
13 directors deems necessary for the financing of projects and for the business
14 of the corporation.

15 7. To refund outstanding obligations incurred by an enterprise to
16 finance the cost of a project when the board of directors finds that the
17 refinancing is in the public interest.

18 8. To invest and reinvest funds under the control of the corporation
19 and bond proceeds pending application thereof to the purposes for which the
20 bonds were issued, subject only to the provisions of any bond resolution,
21 lease or other agreement entered into by the board of directors.

22 9. To make secured or unsecured loans for the purpose of financing or
23 refinancing the acquisition, construction, improvement, equipping or
24 operating of a project and to charge and collect interest on the loans and
25 pledge the proceeds of loan agreements as security for the payment of the
26 principal and interest of any bonds, or designated issues of bonds, issued by
27 the corporation, and any agreements made in connection with the loan,
28 whenever the board of directors finds the loans to further advance the
29 interest of the corporation or the public.

30 10. To acquire and hold obligations of any kind to carry out any of its
31 purposes.

32 11. Subject to ~~the provisions of~~ this section, to make loans to any
33 bank, savings and loan institution, credit union or other mortgage lender,
34 whether organized or existing under the laws of this state, another state or
35 the United States, which is qualified to do business in this state, for the
36 purpose of enabling the institutions to make loans to finance the
37 acquisition, construction, improvement or equipping of projects which are
38 owner-occupied single family dwelling units to be occupied by persons of low
39 and moderate income, as determined by the corporation. The loans shall be
40 fully secured in the same manner as deposits of public funds or by loans
41 secured by mortgages, deeds of trust or other security instruments guaranteed
42 or insured by the United States, or any instrumentality thereof, or by any
43 private mortgage insurance or surety company which is approved by the federal
44 home loan mortgage corporation or the federal national mortgage association
45 and which is licensed to do business in this state, if the private mortgage

1 insurance shall be in a dollar amount sufficient to satisfy the mortgage
2 insurance requirements for loans eligible to be purchased by the federal home
3 loan mortgage corporation or the federal national mortgage association or any
4 other agency or department of the United States. The security shall not be
5 necessary if the bonds issued to make the loans are guaranteed or insured by
6 an agency, department or instrumentality of the United States. Any bonds
7 issued to make loans shall be ratable as "A" or better by a nationally
8 recognized bond rating agency.

9 12. Subject to ~~the provisions of~~ this section, to purchase or enter
10 into advance commitments to purchase loans or any loan interests secured by
11 mortgages, deeds of trust or other security instruments relating to projects
12 which are owner-occupied single family dwelling units from or with any bank,
13 savings and loan institution, credit union or other mortgage lender, whether
14 organized or existing under the laws of this state, another state or the
15 United States, which is qualified to do business in this state, on terms and
16 conditions as may be determined by the corporation. The purpose of the
17 purchases shall be to finance directly or indirectly the acquisition,
18 construction, improvement or equipping of projects which are owner-occupied
19 single family dwelling units to be occupied by persons of low and moderate
20 income. If the bonds issued to make purchases are not guaranteed or insured
21 by an agency, department or instrumentality of the United States or secured
22 by a letter of credit, insurance policy, surety bond or other credit facility
23 from a financial institution or a combination of such instruments, the
24 purchased loans shall be guaranteed or insured by the United States or any
25 agency, department, or instrumentality thereof, or by any private mortgage
26 insurance or surety company which is approved by the federal home loan
27 mortgage corporation or the federal national mortgage association or secured
28 by a letter of credit, insurance policy, surety bond or other credit facility
29 from a financial institution or a combination of such instruments. In the
30 case of private mortgage insurance, the insurance shall be in a dollar amount
31 sufficient to satisfy the mortgage insurance requirements for loans eligible
32 to be purchased by the federal home loan mortgage corporation or the federal
33 national mortgage association or any other agency or department of the United
34 States. Any bonds issued to purchase loans shall be ratable as "A" or better
35 by a nationally recognized bond rating agency. If the purchased loans have
36 not been originated on behalf of the corporation to directly finance
37 projects, the corporation shall require that the institution receiving
38 proceeds from the sale of the loans use the proceeds to make loans to finance
39 or refinance the acquisition, construction, improvement or equipping of
40 projects which are owner-occupied single family dwelling units to be occupied
41 by persons of low and moderate income, as determined by the corporation.

42 13. To elect not to issue an amount of qualified mortgage revenue bonds
43 which it may otherwise issue during any calendar year and to issue instead
44 mortgage credit certificates pursuant to a qualified mortgage credit
45 certificate program as defined in section 35-901.

1 14. To make loans to any person or entity owning residential property
2 or to make loans to any bank, savings and loan association, credit union or
3 other mortgage lender, or to purchase or enter into advance commitments to
4 purchase funding for the repair or improvement of property related to
5 residential or neighborhood improvement projects. An authority may issue its
6 bonds or incur other obligations to fund loans or purchases. An authority
7 shall establish the provisions relating to bonds or other obligations,
8 including the security for the loans, and shall establish the guidelines for
9 the approval, funding, purchasing and security of the loans.

10 15. To enter into contracts and execute any agreements or instrument
11 and do any other act necessary or appropriate to carry out its purposes.

12 16. TO EXERCISE THE POWERS GRANTED BY THIS CHAPTER, INCLUDING THROUGH
13 THE ISSUANCE OF BONDS, TO PROVIDE FINANCING OR REFINANCING FOR PROJECTS OTHER
14 THAN A PROJECT AS DEFINED IN SECTION 35-701, PARAGRAPH 8, SUBDIVISION (a),
15 ITEM (v), LOCATED IN WHOLE OR IN PART OUTSIDE THIS STATE, PROVIDED THAT THE
16 BOARD OF DIRECTORS OF THE CORPORATION HAS DETERMINED THAT THE EXERCISE OF
17 SUCH POWERS WILL PROVIDE A BENEFIT WITHIN THIS STATE.

18 B. The corporation shall not have the power to operate any project as
19 a business other than as lessor or seller nor shall any corporation make any
20 loans pursuant to subsection A, paragraph 9 of this section for projects
21 which are owner-occupied single family dwelling units except by utilizing as
22 its contract agent a mortgage lender, whether organized or existing under the
23 laws of this state, another state or the United States, which is qualified to
24 do business in this state. Any project established pursuant to subsection A,
25 paragraph 14 of this section is not required to use a mortgage lender as its
26 contract agent. The corporation shall not permit any funds derived from the
27 sale of its bonds to be used, loaned or provided for the acquisition of any
28 facilities of a public utility or public service corporation, except as
29 provided in section 35-701. The corporation shall comply with ~~the provisions~~
30 ~~of~~ title 38, chapter 3, article 3.1.

31 C. A person's or family's eligibility for an owner-occupied single
32 family dwelling unit financed pursuant to subsection A, paragraph 11, 12 or
33 13 of this section shall be determined by considering the person's or
34 family's income. Owner-occupied single family dwelling units shall only be
35 financed as provided in subsection A, paragraphs 11, 12 and 13 of this
36 section unless the owner-occupied single family dwelling units are located in
37 an area designated pursuant to section 36-1479 as a slum or blighted area as
38 defined in section 36-1471 by a municipality having a population of more than
39 two hundred fifty thousand persons according to the most recent United States
40 decennial census or a special census conducted in accordance with section
41 42-5033.

42 D. In the exercise of its powers authorized in this section with
43 respect to projects which are owner-occupied single family dwelling units to
44 be occupied by persons of low and moderate income and financed pursuant to
45 subsection A, paragraphs 11 and 12 of this section, the corporation shall

1 establish, subject to approval by the governing body of the authorizing
2 county or municipality, standards and requirements applicable to the purchase
3 of loans or the making of loans to mortgage lenders, including:

4 1. The eligibility of mortgage lenders, including the requirement that
5 all mortgage lenders be approved as mortgagees by the federal housing
6 administration and the veterans administration and be approved as sellers and
7 servicers of mortgage loans by the federal national mortgage association or
8 federal home loan mortgage corporation.

9 2. The time within which mortgage lenders must make commitments and
10 disbursements for mortgage loans.

11 3. The character of residences to be financed by mortgage loans.

12 4. The eligibility of persons of low and moderate income, including
13 the requirement that no person of low and moderate income may receive, more
14 than once in a three year period, a mortgage loan financed directly or
15 indirectly from the proceeds of bonds issued by the corporation.

16 5. The terms and conditions of mortgage loans to be acquired.

17 6. The amounts and types of insurance coverage required on residences,
18 mortgages and bonds.

19 7. The representations and warranties of mortgage lenders confirming
20 compliance with the standards and requirements.

21 8. Restrictions as to interest rate and other terms of mortgage loans
22 and the return realized on mortgage loans by mortgage lenders.

23 9. The type and amount of collateral security to be provided to assure
24 repayment of any loans from the corporation and to assure repayment of bonds.

25 10. Assignment of the mortgage loans to a trustee acting on behalf of
26 the corporation which shall be either a bank or trust company doing business
27 in this state, having an officially reported combined capital surplus,
28 undivided profits and reserves of not less than fifteen million dollars.
29 Trustees must be approved to sell mortgages to and service mortgages for the
30 federal national mortgage association and the federal home loan mortgage
31 corporation.

32 11. Any other matters related to the purchase of mortgage loans or the
33 making of loans to mortgage lenders deemed relevant by the corporation. In
34 establishing standards and requirements, the corporation shall be guided by
35 the following standards:

36 (a) The amount of mortgage monies proposed to be made available in the
37 area is to be reasonably related to the demand for mortgage monies.

38 (b) For projects of owner-occupied single family dwelling units to be
39 occupied by persons of low and moderate income and financed pursuant to
40 subsection A, paragraphs 11 and 12 OF THIS SECTION, at least ten per cent of
41 all mortgage monies proposed to be made available by the corporations other
42 than mortgage monies reserved for any period to finance mortgage loans on
43 residences located within an area designated as a slum or blighted area as
44 defined in section 36-1471 shall be reserved for at least a three month
45 period for the financing of mortgage loans on manufactured housing unless the

1 department of commerce makes a determination that any bonds issued to make
2 loans will not be ratable as "A" or better by a nationally recognized bond
3 rating agency, in which case no such reservation is required. If all the
4 mortgage monies reserved for manufactured housing are not committed or used
5 to make mortgage loans during this three month period, the mortgage lender
6 may allocate the remaining monies to finance mortgage loans on any single
7 family dwelling unit.

8 (c) Any departure from the level of commitment fees, origination fees
9 or servicing fees normally charged by a mortgage lender is to be justified in
10 the context of the transaction.

11 (d) The costs, fees and expenditures associated with the issuance of
12 bonds are to be reasonably related to the services provided.

13 E. Only corporations, the formations of which have been approved by
14 the governing body of a county, ~~—~~ having a population of more than nine per
15 cent of the total state population computed according to the most recent
16 United States decennial census or by the governing body of a municipality
17 having a population of more than nine per cent of the total state population
18 computed, ~~—~~ according to the most recent United States decennial census, shall
19 have the powers granted in subsection A, paragraphs 11, 12 and 13 of this
20 section. Except as provided in section 35-913, subsections E and F, a
21 corporation shall not exercise the powers granted in subsection A, paragraphs
22 11, 12 and 13 of this section outside of its jurisdiction. For the purposes
23 of a refunding of any mortgage revenue bond issued before January 1, 2000,
24 the proceeds from the refunding may be used outside the jurisdiction of the
25 corporation issuing the refunding bonds except the corporation issuing the
26 refunding bonds shall obtain the consent from another corporation with powers
27 granted in subsection A, paragraphs 11, 12 and 13 of this section if the
28 proceeds of the refunding are to be used within the jurisdiction of that
29 corporation. For the purposes of exercising the powers granted in subsection
30 A, paragraphs 11, 12 and 13 of this section, the jurisdiction of a
31 corporation formed on behalf of a county includes all incorporated and
32 unincorporated territory in the county.

33 F. A corporation may not permit proceeds of bonds or a qualified
34 mortgage credit certificate program to be used to finance projects which are
35 owner-occupied single family dwelling units within the corporate limits of an
36 incorporated city or town unless the governing body of the city or town has
37 approved the general location and character of the residences to be
38 financed. The corporation ~~shall~~, prior to the issuance of bonds or mortgage
39 credit certificates for that purpose, **SHALL** give written notice to the
40 governing body of each city or town in which it intends to permit proceeds of
41 an issue of bonds or mortgage credit certificates to be used to finance
42 projects which are owner-occupied single family dwelling units and of the
43 general location and character of the residences which may be financed. The
44 governing body of the city or town shall be deemed to have given its approval
45 unless it has denied approval by formal action of the governing body within

1 twenty-one days after receiving the written notice from the corporation.
2 Approvals given or deemed to have been given with respect to use of proceeds
3 of an issue of bonds or mortgage credit certificates under this subsection
4 may not be withdrawn. Denials may be withdrawn by the governing body of a
5 city or town and approval may be given thereafter if the corporation issuing
6 the bonds or mortgage credit certificates approves the withdrawal of the
7 denial.

8 G. Two or more corporations with the powers granted by subsection E of
9 this section may provide:

10 1. That a corporation, the formation of which was approved by the
11 governing body of a county or city, may exercise the powers granted in
12 subsection A, paragraphs 11, 12 and 13 of this section, with respect to
13 owner-occupied single family dwelling units located in all counties and
14 cities which are parties to a cooperative agreement.

15 2. For the joint exercise by two or more corporations, each formed
16 with the approval of a governing body executing the cooperative agreement, of
17 the powers granted in subsection A, paragraphs 11, 12 and 13 of this section,
18 with respect to owner-occupied single family dwelling units located in all
19 counties and cities which are parties to the cooperative agreement. The
20 agreement shall specify the calendar year or years for which it is effective,
21 the means by which the agreement may be terminated prior to the expiration of
22 the calendar year or years and the aggregate principal amount of bonds which
23 may be issued by the designated corporation or corporations to exercise the
24 powers pursuant to the agreement. The corporation or corporations designated
25 in the agreement to exercise the powers in the counties and cities which are
26 parties to the agreement are the only corporation or corporations authorized
27 and having jurisdiction to exercise the powers and to issue bonds to carry
28 out the powers in the counties and cities while the agreement is in effect.
29 The combined jurisdictions of all the counties and cities which are parties
30 to the cooperative agreement are the jurisdictions of the corporation or
31 corporations designated to exercise the powers granted in subsection A,
32 paragraphs 11, 12 and 13 of this section within the meaning of the mortgage
33 subsidy bond tax act of 1980 (P.L. 96-499; 26 United States Code section
34 103A).

35 H. It shall not be a conflict of interest under title 38, chapter 3,
36 article 8, and this chapter, for any trustee or any mortgage lender to enter
37 into loan agreements with, or to sell mortgage loans to, the corporation as
38 contemplated in subsection A, paragraphs 11, 12 and 13 of this section, act
39 for or under contract with the corporation as a mortgage originator,
40 servicer, paying agent or depository, act as holder or dealer of bonds of the
41 corporation, ~~OR~~ have as a director, officer or employee any member of the
42 board of directors of the corporation or any combination.

43 I. The department of economic security shall once in each calendar
44 year on or before March 1 determine the median family income of this state
45 for the purposes of this chapter.

1 J. All areas in this state which are either designated pursuant to
2 section 36-1479 as slum or blighted areas as defined in section 36-1471 or
3 designated as pockets of poverty by the United States department of housing
4 and urban development are designated as areas of chronic economic distress
5 within the meaning of the mortgage subsidy bond tax act of 1980 (P.L. 96-499;
6 26 United States Code section 103A).

7 K. Any corporation that is described in subsection E of this section
8 and that desires to exercise the powers granted in subsection A, paragraphs
9 11, 12 and 13 of this section, with respect to owner-occupied single family
10 dwelling units located in two or more counties, may do so if the corporation,
11 before issuing bonds or mortgage credit certificates for that purpose, gives
12 written notice to the governing bodies of the other counties and their
13 respective corporations, if any, of its intent to permit the proceeds of an
14 issue of bonds or mortgage credit certificates to finance projects within its
15 jurisdiction which are owner-occupied single family dwelling units. The
16 governing body of a county and its respective corporation, if any, which have
17 been given notice are deemed to have approved the use of the proceeds or
18 mortgage credit certificates for owner-occupied single family dwelling units
19 within their jurisdiction and approved the use of any state ceiling, as
20 defined in section 35-901, unless approval is denied by formal action of the
21 governing body or the board of directors of the corporation, if any, within
22 twenty-one days after receiving written notice from the corporation. Absent
23 a denial of approval as stated in this subsection, a cooperative agreement
24 providing for the exercise of the powers granted in subsection A, paragraphs
25 11, 12 and 13 of this section is deemed to exist among the applicable
26 counties or corporations. Approvals given or deemed to have been given with
27 respect to the matters stated in this subsection may not be withdrawn.
28 Denials by the governing body of a county apply only to the unincorporated
29 areas of the county. Denials may be withdrawn by the governing body of a
30 county and approval may be given thereafter if the corporation issuing the
31 bonds or mortgage credit certificates approves the withdrawal of the denial.
32 Mortgage credit certificates and bond proceeds issued pursuant to this
33 subsection shall be available on an equitable basis within each of the
34 participating counties.

35 Sec. 5. Section 35-721, Arizona Revised Statutes, is amended to read:

36 35-721. Bonds of the corporation

37 A. All principal and interest of bonds issued by the corporation shall
38 be payable solely out of the revenues, proceeds and receipts derived from the
39 corporation's sale of property, loan repayments or lease rentals, or out of
40 the proceeds of bonds issued hereunder, or of any revenues, proceeds and
41 receipts thereof as shall be specified in the proceedings of the board of
42 directors under which the bonds shall be authorized to be issued.

43 B. The proceedings under which such bonds are to be issued shall
44 require the approval of the governing body of each issuance of bonds.

45 C. The bonds prescribed by subsection A may:

1 1. Be executed and delivered by the corporation at any time and from
2 time to time. ~~, and~~

3 2. Be in such form and denominations and of such tenor and maturities.
4 ~~, and~~

5 3. Be in registered or bearer form either as to principal or interest
6 or both. ~~, and~~

7 4. Be payable in such installments and at such time or times not
8 exceeding forty years from the date thereof. ~~, and~~

9 5. Be payable at such place or places within or without the state of
10 Arizona. ~~, and~~

11 6. Bear interest at such rate or rates, payable at such time or times
12 and at such place or places and evidenced in such manner. ~~, and~~

13 7. Be executed by such officers of the corporation and in such manner,
14 and may contain such provisions not inconsistent herewith, all as shall be
15 provided in the proceedings of the board of directors whereunder the bonds
16 are authorized to be issued.

17 D. If deemed advisable by the board of directors, there may be
18 retained in the proceedings under which any bonds of the corporation are
19 authorized to be issued an option to redeem all or any part thereof as may be
20 specified in such proceedings, at such price or prices and after such notice
21 or notices and on such terms and conditions as may be set forth in such
22 proceedings and as may be briefly recited on the face of the bonds, but
23 nothing in this article shall be construed to confer on the corporation any
24 right or option to redeem any bonds except as may be provided in the
25 proceedings under which they shall be issued.

26 E. Any bonds of the corporation may be sold at public or private sale
27 in such manner and from time to time as may be determined by the board of
28 directors of the corporation to be most advantageous, and the corporation may
29 pay all expenses, premiums and commissions which its board of directors may
30 deem necessary or advantageous in connection with the issuance thereof.
31 Issuance by the corporation of one or more series of bonds for one or more
32 purposes shall not preclude it from issuing other bonds in connection with
33 the same project or any other project, but the proceedings whereunder any
34 subsequent bonds may be issued shall recognize and protect any prior pledge
35 or mortgage made for any prior issue of bonds. Any bonds of the corporation
36 at any time outstanding may at any time and from time to time be refunded by
37 the corporation by the issuance of its refunding bonds in such amount as the
38 board of directors may deem necessary but not exceeding an amount sufficient
39 to refund the principal of the bonds so to be refunded, together with any
40 unpaid interest thereon and any premiums and commissions necessary to be paid
41 in connection therewith. Any such refunding may be effected whether the
42 bonds to be refunded shall have then matured or shall thereafter mature,
43 either by sale of the refunding bonds and the application of the proceeds
44 thereof for the payment of the bonds to be refunded thereby, or by the
45 exchange of the refunding bonds for the bonds to be refunded thereby with the

1 consent of the holders of the bonds so to be refunded, and regardless of
2 whether or not the bonds to be refunded were issued in connection with the
3 same projects or separate projects, and regardless of whether or not the
4 bonds proposed to be refunded shall be payable at the same date or different
5 dates or shall be due serially or otherwise. All such bonds and the interest
6 coupons applicable thereto are hereby made and shall be construed to be
7 negotiable instruments.

8 F. The corporation shall notify the attorney general of its intention
9 to issue bonds. Such notification shall adequately describe the project.
10 The attorney general shall inform the corporation within ten days if in his
11 opinion the project sought to be financed does not come within the purview of
12 this chapter. If after ten days the attorney general has not issued an
13 opinion that the project does not so conform, the corporation may issue such
14 bonds. If the attorney general's negative opinion is issued within ten days,
15 such bonds shall not be issued. No action shall be brought questioning the
16 legality of any contract, lease, mortgage, proceedings or the issuance of
17 bonds hereunder from and after ~~three months~~ NINETY CALENDAR DAYS from the
18 date the bonds are authorized to be issued by the governing body.

19 Sec. 6. Section 35-728, Arizona Revised Statutes, is amended to read:

20 35-728. Additional powers; allocating low-income housing tax
21 credits; report; definition

22 A. In addition to the other powers granted to the department, the
23 department may:

24 1. Adopt rules for the conduct of its business and its review of the
25 activities described in this article.

26 2. Contract with, retain or designate financial consultants, attorneys
27 and such other consultants and independent contractors as it determines
28 necessary or appropriate to carry out the purposes of this article.

29 3. Undertake and carry out or authorize the completion of studies and
30 analyses of housing conditions and needs within this state relevant to the
31 purposes of this section to the extent not otherwise undertaken by other
32 departments or agencies of this state satisfactory for such purpose.

33 B. The department is designated the housing credit agency for this
34 state for purposes of section 42 of the United States internal revenue code
35 and is responsible for allocating the federal low-income housing tax credits
36 available to this state. After reviewing applications the department may
37 assess the applicant a reasonable fee in connection with processing the
38 applications and monitoring compliance with the program. Beginning on
39 October 1, 2002, the department shall remit the fees to the state treasurer
40 for deposit in the Arizona department of housing program fund established by
41 section 41-3957.

42 C. For the activities authorized in this section, the department shall
43 notify a city, town, county or tribal government that a multifamily rental
44 project is planned for its jurisdiction and, before proceeding, shall request
45 and obtain written consent from the governing body of the city, town, county

1 or tribal government or an official authorized by the governing body of the
2 city, town, county or tribal government. The department shall not interfere
3 with or attempt to override the local jurisdiction's planning, zoning or land
4 use regulations. This subsection shall not be interpreted to interfere in
5 any way with the requirements of state or federal fair housing laws.

6 D. The department shall provide to the governor, the president of the
7 senate, the speaker of the house of representatives and the auditor general
8 not later than September 30 of each year a report of the activities of the
9 department during the preceding fiscal year. The report shall include
10 information on the following matters:

11 1. An assessment of the number and geographic location of housing
12 units or developments financed or otherwise assisted by the department or by
13 the corporations reporting to the department.

14 2. An assessment of the assistance in obtaining housing provided by
15 the department or by the corporations reporting to the department to persons
16 of low or moderate income and to other persons.

17 3. An assessment of the approximate amount of money used in the
18 housing industry as a result of the department's activities.

19 E. For the purposes of this section, "department" means:—

20 ~~1. Through September 30, 2002, the office of housing development in~~
21 ~~the governor's office.~~

22 ~~2. Beginning on October 1, 2002,~~ the Arizona department of housing.

23 Sec. 7. Section 35-729, Arizona Revised Statutes, is amended to read:

24 ~~35-729.~~ Exemption from procurement code

25 For purposes of this article and chapter 7 of this title, the following
26 are exempt from title 41, chapter 23 or other restrictions on the procedure
27 for entering into contracts:

28 1. The department of commerce.

29 ~~2. Through September 30, 2002, the office of housing development in~~
30 ~~the governor's office.~~

31 ~~3. Beginning on October 1, 2002,~~

32 ~~2.~~ The Arizona department of housing.

33 Sec. 8. Section 35-901, Arizona Revised Statutes, is amended to read:

34 ~~35-901.~~ Definitions

35 In this chapter, unless the context otherwise requires:

36 1. "Bond" means any obligation which is subject to the provisions of
37 section 146 of the code, excluding obligations that received a carry-forward
38 allocation in a prior year.

39 2. "Business day" means between the hours of 8:00 a.m. and 5:00 p.m.,
40 mountain standard time, any day of the week other than a Saturday, a Sunday
41 or a legal holiday or a day on which the department is authorized or
42 obligated by law or executive order to close.

43 3. "Carry-forward project" means any project receiving a carry-forward
44 allocation pursuant to section 35-907.

1 4. "Certificate of closing" means the certificate of closing adopted
2 for use by and to be filed with the department declaring that bonds were
3 issued or that a qualified mortgage credit certificate program has been
4 established.

5 5. "Code" means the United States internal revenue code of 1986, as
6 amended, and its applicable regulations.

7 6. "Confirmation" means the allocation confirmation which confirms an
8 allocation to a project in the form adopted for use by the department.

9 7. "Department" means the department of commerce.

10 8. "Director" means the director of the department and any other
11 person authorized to act on behalf of the department.

12 9. "Issued" means, ~~delivered and paid for~~ WITH RESPECT TO A BOND OR
13 BONDS, EITHER OF THE FOLLOWING:

14 (a) THE BOND OR BONDS HAVE BEEN DELIVERED AND PAID FOR IN FULL.

15 (b) FOR BONDS ISSUED PURSUANT TO A DRAW-DOWN LOAN FOR WHICH A BOND
16 PURCHASER HAS AGREED TO RECEIVE AND PAY FOR THE BONDS OF THE ISSUE IN
17 INCREMENTS FROM TIME TO TIME, ALL OF THE BONDS ARE TREATED AS ISSUED ON THE
18 FIRST DATE ON WHICH THE AGGREGATE PRINCIPAL AMOUNT OF SUCH BONDS DELIVERED
19 AND PAID FOR EXCEEDS THE LESSER OF FIFTY THOUSAND DOLLARS OR FIVE PER CENT OF
20 THE AGGREGATE ISSUE PRICE OF THE ISSUE.

21 10. "Issuer" means an entity or person issuing bonds.

22 11. "Manufacturing project" means a project as described in section
23 35-701, paragraph 8, subdivision (a), item (i), (ii), (x) or (xiii).

24 12. "Mortgage credit certificate" means a certificate as described in
25 section 25(c)(1) of the code.

26 13. "Nonurban area" means all areas of this state not within the
27 boundaries of the urban cities.

28 14. "Notice of intent" means the notice of intent to be filed with the
29 department in the form adopted for use by the department.

30 15. "Project" means a qualified mortgage credit certificate program or
31 any construction, acquisition, planned expenditure or other activity,
32 including all phases of a multiphased project which requests allocations in
33 the same year and including costs of issuance, capitalized interest and
34 discounts, financed with bonds and located in this state or directly
35 benefiting residents of this state. All qualified mortgage credit
36 certificate programs and qualified mortgage revenue bonds, or combinations of
37 such programs and bonds, of a single issuer or group of issuers acting
38 together, constitute a single project for the purposes of this paragraph.

39 16. "Qualified mortgage credit certificate program" means a qualified
40 mortgage credit certificate program as described in section 25(c)(2) of the
41 code.

42 17. "Qualified mortgage revenue bonds" means an issue of bonds as
43 described in section 143(a) of the code.

44 18. "Qualified student loan project" means an issue of bonds as
45 described in section 144(b) of the code.

1 19. "Request" means the request for allocation to be filed with the
2 department in the form adopted for use by the department.

3 20. "Security deposit" means cash, a bank cashier's check, a surety
4 bond, a letter of credit or any other form of security approved by the
5 director in favor of the department which is received by the department from
6 an issuer or user to secure or extend an allocation.

7 21. "State ceiling" means the dollar limit of the aggregate amount of
8 private activity bonds which may be issued in this state pursuant to section
9 146 of the code for each calendar year, beginning in 1988.

10 22. "Tax reform act of 1986" means P.L. 99-514 enacted by the
11 ninety-ninth Congress, second session in 1986.

12 23. "Urban city" means a city having a population of not less than one
13 hundred thousand persons according to the most recent United States decennial
14 or special census. The area of each urban city is the boundary of the city
15 as of January 1 of the current calendar year.

16 24. "Year" means the calendar year.

17 Sec. 9. Section 35-904, Arizona Revised Statutes, is amended to read:

18 35-904. Obtaining and issuing confirmations

19 A. Subject to section 35-905, a confirmation allocating a portion of
20 the state ceiling to a project must be obtained before the sale or issuance
21 of bonds or mortgage credit certificates by the issuer. A confirmation may
22 be obtained by filing with the department a request and filing with the
23 department evidence of an inducement resolution or other official action
24 taken by the issuer in connection with the project. Requests filed by mail
25 are deemed to be filed with the department at 5:00 p.m. on the day the
26 request is actually received at the department. All requests received on the
27 same date and at the same time shall be dated and numbered by lot and
28 confirmations to those requests shall be issued in the order determined by
29 lot.

30 B. On and after the first business day of each year, a request may be
31 prepared and filed by the issuer or on behalf of the issuer by bond counsel
32 or any other interested person.

33 C. Except as provided in section 35-902, subsection I, section 35-909
34 and subsection D of this section, a confirmation issued before 5:00 p.m. on
35 June 30 expires and no allocation is deemed to be made unless the applicable
36 bonds have been issued or a qualified mortgage credit certificate program has
37 been established and a certificate of closing has been actually filed, not
38 merely postmarked, with the department no later than ~~sixty~~ NINETY days after
39 the date of the confirmation or the first business day after the ~~sixtieth~~
40 NINETIETH day if the ~~sixtieth~~ NINETIETH day is not a business day. The
41 confirmation may be extended as provided in section 35-910 beyond such ~~sixty~~
42 NINETY day period or 5:00 p.m. on June 30.

43 D. Notwithstanding subsection C of this section, a confirmation issued
44 for a project to be funded in part with an urban development action grant to
45 be made under section 119 of the housing and community development act of

1 1974 (P.L. 93-383; 88 Stat. 633) or a housing development grant to be made
2 under section 301 of the housing and urban-renewal recovery act of 1983 (P.L.
3 98-181, title III, section 301, 97 Stat. 1196 and amended October 17, 1984,
4 P.L. 98-479, title III, section 103, 98 Stat. 2223) expires and no allocation
5 is deemed to be made unless the applicable bonds have been issued and a
6 certificate of closing and evidence satisfactory to the director of the
7 commitment to make an urban development action grant or a housing development
8 grant with respect to such project have been actually filed, not merely
9 postmarked, with the department no later than 5:00 p.m. on December 26.

10 E. Subject to ~~the provisions of~~ this section and section 35-909, the
11 confirmation shall assure allocation in the manner prescribed by the code for
12 a dollar amount of bonds or a qualified mortgage credit certificate program
13 not in excess of the amount set forth in the confirmation.

14 F. The director shall decline to issue confirmations at such time as
15 the aggregate amount of bonds or mortgage credit certificates allocated under
16 all confirmations previously issued and not expired, together with the
17 proposed issue of bonds or mortgage credit certificates as to which a request
18 has been received, would, through 5:00 p.m. on June 30, exceed the respective
19 aggregate amount allocated under section 35-902, subsection C, D, E, F or G
20 for such purpose, and from July 1, exceed the aggregate amount of the state
21 ceiling that is not allocated under an unexpired confirmation nor within the
22 discretion of the director pursuant to section 35-902, subsection B. On
23 expiration of a confirmation or release of an allocation, the director shall
24 issue a confirmation to the next numbered request which is equal to or less
25 than the then available portion of the state ceiling or to the next numbered
26 request if the principal amount of such request is reduced to an amount equal
27 to or less than the then available portion of the state ceiling available for
28 such purpose. The director may only issue a single confirmation for each
29 request.

30 G. A confirmation made pursuant to the director's discretion may be
31 accompanied by a certificate executed by the director. The director, on
32 request, shall execute a certificate stating that the confirmation was not
33 made in consideration of any bribe, gift, gratuity or direct or indirect
34 contribution to any political campaign. The director may require such oaths
35 or affirmations as the director deems necessary to verify the accuracy of the
36 certificate.

37 H. The director shall attempt to issue confirmations within three
38 business days of receipt and shall issue confirmations in the order of
39 receipt of fully and properly completed requests within the limitations of
40 subsection F of this section. The department shall notify the issuer or
41 other contact person listed in the request in writing, by telefacsimile or by
42 telephone of the issuance of a confirmation. The department is not
43 responsible for returning confirmations to the filing party. A confirmation
44 shall be available for pickup at the department after issuance of the
45 confirmation.

1 Sec. 10. Section 35-905, Arizona Revised Statutes, is amended to read:

2 35-905. Restrictions on confirmations

3 A. Before April 1 of each year, seventy per cent of the allocation to
4 manufacturing projects described in section 35-902, subsection F is reserved
5 for manufacturing projects located in nonurban areas, and the remaining
6 thirty per cent of the allocation to manufacturing projects described in
7 section 35-902, subsection F shall be reserved for urban areas. Before July
8 1 of each year, seventy per cent of the allocation available for confirmation
9 pursuant to the director's discretion as described in section 35-902,
10 subsection B is reserved for projects located in nonurban areas, and the
11 remaining thirty per cent of the allocation to the director's discretion as
12 described in section 35-902, subsection B, shall be reserved for urban areas.

13 B. Before December 17, a confirmation shall not be allocated to a
14 project in an amount greater than ~~twenty~~ THIRTY-FIVE million dollars, except
15 that this subsection does not apply to any project that is eligible to
16 receive an allocation pursuant to section 35-902, subsection B, C or E. For
17 THE purposes of this subsection, the amount of allocation to a project shall
18 also include any other state ceiling allocation received by any related
19 person to the project. For THE purposes of this subsection, "related person"
20 has the same meaning as provided in section 147(a)(2) of the code, except
21 that all references to fifty per cent shall be changed to twenty-five per
22 cent.

23 Sec. 11. Section 35-906, Arizona Revised Statutes, is amended to read:

24 35-906. Allocations obtained after June 30 through 5:00 p.m.

25 December 16

26 A. Any portions of the state ceiling, including any portions of the
27 state ceiling subject to a confirmation for which bonds have not been issued
28 or for which a qualified mortgage credit certificate program has not been
29 established by 5:00 p.m. on June 30, other than confirmations extended
30 pursuant to section 35-910 and the state ceiling allocated to the discretion
31 of the director pursuant to section 35-902, subsection B, shall be pooled and
32 are subject to allocation among requests on a first come, first served basis.

33 B. Obtaining and issuing confirmations on or after July 1 through
34 5:00 p.m. December 16 shall occur as provided in section 35-904, subject to
35 the following restrictions and changes:

36 1. Requests may be filed on or after July 1 of each year.

37 2. A confirmation issued on or after July 1 through 5:00 p.m. December
38 16 expires and no issuer is deemed to have been allocated any portion of the
39 state ceiling unless the issuer's bonds have been issued or a qualified
40 mortgage credit certificate program has been established and a certificate of
41 closing has been actually filed, and not merely postmarked, with the
42 department no later than ~~sixty~~ NINETY days after the date of the confirmation
43 or the first business day after the ~~sixtieth~~ NINETIETH day if the ~~sixtieth~~
44 NINETIETH day is not a business day, or before 5:00 p.m. December 16,

1 whichever occurs first. The confirmation may be extended as provided in
2 section 35-910.

3 3. Before the director issues the confirmation, the department must
4 receive a security deposit in the amount of one per cent of the principal
5 amount stated in the request. The security deposit is forfeited to the
6 department if the bonds are not issued before the expiration of the
7 confirmation or any extension. The security deposit shall not be required
8 pursuant to this paragraph if the direct beneficiary of the bond proceeds is
9 this state or a county, city, town or nonprofit entity, the issuer is a
10 student loan corporation or the project will include urban development action
11 grant or housing development grant financing, is a qualified mortgage revenue
12 bond or is a qualified mortgage credit certificate program.

13 4. Except as provided in section 35-910, after June 30 of each year,
14 the director shall not issue confirmations for any request for allocations
15 submitted directly or indirectly in connection with a qualified mortgage
16 certificate program or qualified mortgage revenue bonds.

17 Sec. 12. Section 35-910, Arizona Revised Statutes, is amended to read:
18 35-910. Extension of confirmations

19 A. A confirmation may be extended one time for up to ~~sixty~~ NINETY days
20 but not later than December 16 on providing the department with a security
21 deposit equal to one per cent of the principal amount set forth in the
22 confirmation. The security deposit and request for extension shall be
23 submitted to the department before the expiration of the confirmation.
24 Except as provided in subsection B, all extensions granted pursuant to this
25 section expire on the earlier of ~~sixty~~ NINETY days from the date of the
26 extension or at 5:00 p.m. December 16. No security deposit is required
27 pursuant to this section if the project is a qualified student loan project,
28 is a qualified mortgage revenue bond, is a qualified mortgage credit
29 certificate program or is for home improvement and rehabilitation. Requests
30 shall not be extended.

31 B. A confirmation or extension of confirmation which expires at 5:00
32 p.m. December 16 may be extended to 5:00 p.m. December 26 by filing with the
33 department on or before 5:00 p.m. on December 16 a certificate certifying
34 that the bonds will be issued before 5:00 p.m. December 26, and providing the
35 department with an additional security deposit equal to one per cent of the
36 principal amount stated in the confirmation. All extensions granted pursuant
37 to this subsection expire at 5:00 p.m. December 26.

38 C. All security deposits received by the department pursuant to this
39 section are forfeited in favor of the department if bonds are not issued
40 before the expiration of the extension.

1 Sec. 13. Section 35-913, Arizona Revised Statutes, is amended to read:

2 35-913. Special allocations for mortgage revenue bonds and
3 mortgage credit certificates; definitions

4 A. This section governs allocations of the state ceiling made by the
5 director of the department of commerce pursuant to section 35-902,
6 subsection C.

7 B. If the portion of a corporation's allocation computed pursuant to
8 subsection C of this section is less than ten million dollars, the director
9 of the department of commerce shall first award ten million dollars of the
10 state allocation to that corporation. Thereafter, the director of the
11 department of commerce shall award the remaining state allocation in the same
12 proportion that the population of each of the remaining corporations'
13 jurisdictions bears to the population of this state according to the census,
14 minus the population of the corporations receiving a ten million dollar
15 allocation pursuant to this subsection.

16 C. Each corporation that is described in section 35-706, subsection E
17 and that submits a request for allocation pursuant to section 35-902,
18 subsection C shall receive a portion of the allocation made by the director
19 of the department of commerce in the same proportion that the population of
20 that corporation's jurisdiction bears to the population of this state,
21 according to the census but in no event less than ten million dollars.

22 D. At any time before submitting a formal request for allocation, but
23 no later than January 31, a corporation described in section 35-706,
24 subsection E may submit to the director an allocation reservation for an
25 amount not to exceed that portion of the allocation to which the corporation
26 is entitled pursuant to this subsection. The allocation reservation may
27 include an offer to use additional allocation amounts described in subsection
28 E of this section for rural areas. On or before January 31, the Arizona
29 housing finance authority may submit to the director an allocation
30 reservation for the amounts described in subsection E of this section for
31 rural areas. The allocation reservation does not constitute a formal request
32 for allocation and does not obligate the Arizona housing finance authority or
33 a corporation to submit a request for allocation.

34 E. The director shall require that one or more qualified mortgage
35 revenue bond or qualified mortgage credit certificate programs benefit the
36 residents of rural areas. Between February 1 and March 1, an allocation of
37 the unreserved portion of the state ceiling under section 35-902, subsection
38 C shall be made by the director for this purpose. The recipient of this
39 allocation shall be the Arizona housing finance authority, or the Arizona
40 housing finance authority and one or more corporations, or one or more
41 corporations that have executed a cooperative agreement and that have jointly
42 submitted an allocation reservation pursuant to subsection C of this section.
43 The director shall determine the recipient of the allocation described in
44 this subsection by March 1 from the Arizona housing finance authority or one
45 or more of those corporations that have offered to use the allocation

1 described in this subsection in an allocation reservation submitted before
2 February 1. If neither the Arizona housing finance authority nor any
3 corporation offers an allocation reservation to use this allocation before
4 February 1 the director shall select the Arizona housing finance authority or
5 a corporation for that purpose.

6 F. If the director selects the Arizona housing finance authority, or
7 the Arizona housing finance authority and one or more corporations or one or
8 more corporations to serve rural areas, the Arizona housing finance
9 authority, the Arizona housing finance authority and one or more corporations
10 or the corporation or corporations shall receive confirmation of the
11 allocation described in subsection E of this section before March 1.
12 Mortgage credit certificates or the proceeds of qualified mortgage revenue
13 bonds made available through the portion of the state ceiling allocated
14 pursuant to subsection E of this section shall be reserved for at least a one
15 hundred eighty day period exclusively for the financing of single family
16 dwelling units in rural areas. The director may extend the one hundred
17 eighty day period at the time of allocation or a later time based on market
18 conditions. The director at any time may modify any extension based on
19 market conditions at the time. After the one hundred eighty day period or
20 any extension, whichever is later, the director may allocate any reservation
21 that has not been used for use within the jurisdiction of any corporation
22 that is described in section 35-706, subsection E and that gives its consent.

23 G. The validity of a confirmation for qualified mortgage revenue bonds
24 or a qualified mortgage credit certificate program to benefit residents of
25 part of the state shall not be affected by reason of qualified mortgage
26 revenue bonds or a qualified mortgage credit certificate program receiving a
27 confirmation to benefit residents of another part of the state not being
28 issued.

29 H. Except as provided in subsections F and G of this section, a
30 corporation shall not exercise the powers granted under section 35-706,
31 subsection A, paragraphs 11, 12 and 13 outside of its own jurisdiction.

32 I. At the time a confirmation is issued the director shall determine
33 in writing the allocation amounts in the manner described in this section. In
34 determining the recipient or recipients for the allocation described in
35 subsection E of this section, the director may consider the effectiveness of
36 alternative program structures in rural areas. No action may be brought
37 questioning the accuracy of any determination made by the director pursuant
38 to this section without a finding of the director's bad faith or wilful
39 misconduct.

40 J. Confirmations of the state ceiling under section 35-902, subsection
41 C may be applied toward a qualified mortgage revenue bond program or
42 qualified mortgage credit certificate program in any combination deemed
43 appropriate by the issuing corporation with the approval of its governing
44 body or by the board of the Arizona housing finance authority for a program
45 for rural areas established by the Arizona housing finance authority.

1 K. Denial of approval of the use of qualified mortgage revenue bond
2 proceeds or qualified mortgage credit certificates in a city or town pursuant
3 to section 35-706 or subsection L of this section does not affect the
4 validity of the allocation or affect the amount of state allocation that is
5 allocated for that purpose.

6 L. The Arizona housing finance authority may not permit proceeds of
7 bonds or a qualified mortgage credit certificate program in rural areas to be
8 used to finance projects that are owner-occupied single family dwelling units
9 within the corporate limits of an incorporated city or town, the
10 unincorporated area of a county or a reservation for an Indian tribe, unless
11 the governing body of the city, town, county or tribe has approved the
12 general location and character of the residences to be financed. Before the
13 issuance of bonds or mortgage credit certificates for that purpose, the
14 authority shall give written notice to the governing body of each city, town,
15 county or tribal reservation in which it intends to permit proceeds of an
16 issue of bonds or mortgage credit certificates to be used to finance projects
17 that are owner-occupied single family dwelling units and of the general
18 location and character of the residences that may be financed. The governing
19 body of the city, town, county or tribe is deemed to have given its approval
20 unless it denies approval by formal action of the governing body within
21 twenty-one days after receiving the written notice from the authority.
22 Approvals given or deemed to have been given with respect to use of proceeds
23 of an issue of bonds or mortgage credit certificates under this subsection
24 may not be withdrawn. Denials may be withdrawn by the governing body of a
25 city, town, county or tribe and approval may be given after a denial is
26 withdrawn if the authority approves the withdrawal of the denial.

27 M. For THE purposes of this section:

28 1. "Census" means the most recent United States decennial census or
29 the special census conducted in accordance with section 42-5033 if it is more
30 recent than the most recent United States decennial census.

31 2. "Director" means ~~—~~

32 ~~(a) Through September 30, 2002, the director of the office of housing~~
33 ~~development in the governor's office.~~

34 ~~(b) Beginning on October 1, 2002,~~ the director of the Arizona
35 department of housing.

36 3. "Population" of a corporation's jurisdiction means population
37 according to the census. The population of a corporation formed on behalf of
38 a county equals the population of the county minus the population of any
39 other corporation that is within the county, that is described in section
40 35-706, subsection E and that submits a request for allocation pursuant to
41 section 35-902, subsection C.

42 4. "Rural areas" means all of the area of this state that is not
43 located within the jurisdiction of a corporation described in section 35-706,
44 subsection E.